

THE COMMISSIONER

Notice of Action on Petition for Rulemaking

Selection and Appointment

Eligibility for Promotional Examination

Petitioner: James M. Walker, Delegate, PBA Local 113.

Authority: N.J.S.A. 52:14B-4(f); N.J.A.C. 1:30-4.2.

Take notice that on June 1, 2004, the Director of Merit System Practices and Labor Relations, on behalf of the Commissioner of Personnel (Commissioner), received a petition for rulemaking concerning N.J.A.C. 4A:4-2.6(a). Petitioner requested that the continuous permanent service requirements in N.J.A.C. 4A:4-2.6(a) be amended to conform to subsection (b) with respect to career service police officers in State service working for the Department of Human Services.

Specifically, N.J.A.C. 4A:4-2.6(a), which applies to all promotional titles in State and local service (with the exception of those titles referenced in subsection (b)), provides in part that applicants for promotional examinations shall have an aggregate of one year of continuous permanent service immediately preceding the closing date in a title or titles to which the examination is open. However, N.J.A.C. 4A:4-2.6(b) provides that, in local service, promotions for entry-level law enforcement and fire titles shall

require three years of continuous permanent service in a title to which the examination is open. Therefore, police officers in State service, such as Senior Police Officer, Health Care Facilities (HCF), who work for the Department of Human Services and are interested in promotion, only need accumulate one year of aggregate permanent service for promotion rather than the three years of continuous permanent service that local law enforcement officers must possess for promotion.

A notice acknowledging receipt of the Petition and summarizing its contents was filed with the Office of Administrative Law (OAL) on June 4, 2004 and appeared in the July 6, 2004 issue of the New Jersey Register (see 36 N.J.R. 3303(a)).

The Commissioner certifies that the petition was duly considered pursuant to law, and, upon due deliberation, has determined that the Department should deny the petition, as no factual basis exists for the amendments that petitioner suggests. Initially, it is noted that the Merit System Board's predecessor, the Civil Service Commission, decided in 1979 that, regardless of jurisdiction, eligibility of municipal police officers for promotion should be governed by the same time-in-grade requirement of three years of continuous permanent service. See *In the Matter of State-Wide Standards for Police Officer Examination and Time Required in Permanent*

Status as Police Officer Prior to Promotion (Civil Service Commission, July 3, 1979).

The reason for the three-year promotional eligibility requirement for municipal police officers, while police officers in State service need have one year of service for promotion, is multi-faceted. Municipal police officers may face situations that require them to take immediate, non-reviewable and irrevocable action. Therefore, the public expects that, before they assume a supervisory role, they will possess the necessary training, experience, and sound judgment to address such situations. Conversely, police officers in State service who work in an institution are less likely to encounter situations that require them to take immediate, non-reviewable and irrevocable actions. This is chiefly because police officers in State service, such as the Senior Police Officer, HCF, safeguard a particular segment of the overall population (i.e., clients or residents). They do so within a clearly delineated area, such as on an institution's campus. Therefore, equating the work of the municipal police officer with a police officer in State service is not appropriate.

Additionally, it is noted that a Police Officer Recruit, HCF, serves just one year before being promoted into the entry-level title of Senior Police Officer, HCF. Thus, HCF police officers now serve for a minimum of not one, but two, years prior to becoming eligible for promotion to Police Sergeant, HCF. Were the petitioner's petition to be granted, an HCF police officer

interested in promotion to Police Sergeant, HCF, would have to serve four years to be eligible for promotion, rather than three. This number is reached by counting the one year between Police Officer Recruit, HCF, and Senior Police Officer, HCF, as well as the three years between Senior Police Officer, HCF, and Police Sergeant, HCF. This would mean that an employee in this title series would have to have more time-in-grade than a municipal police officer in order to be eligible for promotion.

Another inconsistency would result between the HCF title series and the Campus Police Officer title series, since the latter title series does not offer "Recruit" and "Senior" levels; therefore, while the Senior Police Officer, HCF, would have to have four years of service counting his or her year as a Recruit, the Campus Police Officer would need only three years for a promotion.

Moreover, all State employees presently need satisfy only one year in-grade to be eligible for a promotion. Increasing the time-in-grade for police officers in State service would thus create an inequity among State employees with regard to promotional eligibility. Finally, any change to the time-in-grade requirement for promotional eligibility should be supported by a study demonstrating that fewer than three years time-in-grade results in poor performance of police officers promoted in State service. The

Department of Personnel is not aware of any such study, nor has the petitioner provided any data or study to support such a conclusion.

A copy of this public notice has been mailed to the petitioner.

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